

1 HONORABLE BARBARA J. ROTHSTEIN  
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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

SIERRA CLUB, *et al.*, )  
Plaintiffs, ) No. C11-1759BJR  
and ) JOINT STATUS REPORT  
THE SPOKANE TRIBE OF INDIANS, )  
Plaintiff-Intervenor, )  
v. )  
REGIONAL ADMINISTRATOR OF THE )  
ENVIRONMENTAL PROTECTION )  
AGENCY, CHRIS HLADICK, *et al.*, )  
Defendants, )  
and )  
SPOKANE COUNTY; KAISER )  
ALUMINUM WASHINGTON LLC; and )  
STATE OF WASHINGTON )  
DEPARTMENT OF ECOLOGY, )  
Defendant-Intervenors.  
\_\_\_\_\_  
The Parties in this action — Plaintiffs Sierra Club and Center for Environmental Law &  
Policy, Defendants Regional Administrator of the Environmental Protection Agency Chris

1 Hladick, et al., (collectively “EPA”), Intervenor-Plaintiff Spokane Tribe of Indians (the “Tribe”),  
 2 and Intervenor-Defendants Spokane County, Kaiser Aluminum Washington LLC, and State of  
 3 Washington, Department of Ecology (“Ecology”) — jointly submit this status report in  
 4 accordance with the Court’s January 17, 2017 Minute Order. Doc. No. 184. That Order granted  
 5 the unopposed motion filed by Plaintiffs and the Tribe to stay this case and directed the Parties to  
 6 file a status report every 120 days. *Id.*

8 As previously explained, Ecology is undertaking the process to reissue National Pollutant  
 9 Discharge Elimination System (“NPDES”) permits for certain direct dischargers of, among other  
 10 pollutants, total PCBs into the Spokane River. Doc. No. 183 ¶ 4. On November 28, 2016, EPA  
 11 promulgated revisions to water quality criteria for toxic pollutants, including revisions to the  
 12 water quality criteria for total PCBs. Ecology is continuing to consider how to address the  
 13 revised water quality criteria in NPDES permits for Spokane River dischargers. In this regard,  
 14 Ecology is continuing to develop a permitting strategy. In addition, based on an administrative  
 15 petition for reconsideration, which EPA granted on August 3, 2018, EPA is in the process of  
 16 reconsidering certain water quality criteria for toxic pollutants, including those for total PCBs,  
 17 that were promulgated on November 28, 2016.

20 The Spokane River Regional Toxics Task Force is continuing to implement its  
 21 *Comprehensive Plan to Reduce Polychlorinated Biphenyls (PCBs) in the Spokane River* (Nov.  
 22 29, 2016), including with the support of the Washington legislature’s \$310,000 appropriation for  
 23 the current biennium. As reported previously, the implementation actions in the Comprehensive  
 24 Plan include: identification, evaluation, and cleanup of known PCB contamination (specifically  
 25 impacting groundwater); implementation of stormwater controls and management activities;  
 26 product testing and establishing procurement and purchasing standards for products and  
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1 packaging containing PCBs; support of green chemistry research; public outreach and education;  
 2 support of rulemaking to eliminate or reduce inadvertently generated PCBs; research on  
 3 emerging end of pipe treatment technologies; building demolition and renovation best  
 4 management practices; and other studies to address data gaps. Ecology and the Task Force are  
 5 also independently assessing in-stream ambient concentrations for PCBs. Since our prior status  
 6 report, the Task Force has taken or begun the following actions:

- 8 • approved a memo describing the results of research into groundwater wells upgradient of  
 9 the Kaiser facility.
- 10 • approved the white paper prepared by Northwest Green Chemistry regarding inadvertent  
 11 PCBs in pigments.
- 12 • presented preliminary data from the August 2018 synoptic (water column) survey at the  
 13 December Task Force meeting, with the expectation that a draft report will be available  
 14 this spring.
- 15 • developing a centralized database where all relevant data can be stored and accessed.

16 As previously explained, Plaintiffs and the Tribe may voluntarily dismiss this case based  
 17 in part upon the terms that Ecology includes in the relevant NPDES permits upon renewal. *See*  
 18 Doc. No. 183 ¶ 5.

19 Accordingly, the Parties continue to believe that proceedings in this case should remain  
 20 stayed. Therefore, no action is required of the Court at this time, and the Parties will file as  
 21 appropriate a status report within the next 120 days in accordance with the Court's Minute Order.  
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 24 Respectfully submitted by:  
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing filing was electronically filed with the Clerk of the Court on February 15, 2019, using the CM/ECF system, which will send notification of said filing to the attorneys in this case registered with the Court's CM/ECF system.

/S/ David Kaplan